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for the Substantively Consolidated SIPA
Liquidation of Bernard L. Madoff Investment
Securities LLC and the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

DPF INVESTORS; DAVID A. PERSKY, in his
capacity as a General Partner of DPF Investors;
MARLENE PERSKY, in her capacity as a General
Partner of DPF Investors, and in her capacity as
Custodian for J.P. and L.P., Trustee of the Persky
Family Trust, Trustee of the David A. Persky Trust
for Minors for the benefit of L.P., Trustee of the

Adv. Pro. No. 10-04475 (SMB)

David A. Persky Trust for Minors for the benefit of J.P., all of which are General Partners of DPF Investors; PERSKY FAMILY TRUST; DAVID A. PERSKY TRUST FOR MINORS FOR THE BENEFIT OF L.P.; DAVID A. PERSKY TRUST FOR MINORS FOR THE BENEFIT OF J.P.; J.P.; and L.P.,

Defendants.

NOTICE OF MEDIATION REFERRAL

On November 10, 2010, this Court entered the Order (1) Establishing Litigation Case Management Procedures for Avoidance Actions and (2) Amending the February 16, 2010 Protective Order (the “Order”)¹ [Adv. Pro. No. 08-01789 (SMB), Dkt. No. 3141]. Pursuant to the Notice of Applicability filed by Plaintiff Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), in this Adversary Proceeding on November 30, 2010 [Dkt. No. 2], the Order and the avoidance procedures contained therein (the “Avoidance Procedures”) are applicable to the instant matter.

On October 3, 2011 Defendants filed a motion to dismiss this adversary proceeding [Dkt. No. 13] pursuant to Federal Rule of Civil Procedure 12(b)(6), made applicable by Bankruptcy Rule 7012 (a “Rule 12(b)(6) Motion”).

Pursuant to the Avoidance Procedures, upon the filing of a Rule 12(b)(6) Motion, the issues raised in such motion, together with the issues raised in the Complaint, are immediately referred to mediation. Avoidance Procedures, ¶2D.

¹ All terms not defined herein shall be given the meaning ascribed to them in the Order.

Pursuant to the Avoidance Procedures, within 14 calendar days after the filing of this Notice of Mediation Referral, the Trustee and Defendants (the “Parties”) shall choose a mediator in accordance with the Mediation Order. If the Parties are unable to agree on a mediator, the Court shall appoint one in accordance with the Mediation Order. Avoidance Procedures, ¶5C.

Dated: New York, New York

May 13, 2014

Of Counsel:

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